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DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
WASHINGTON, D. C. 20301

OLC 73-0892

May 30, 1973

Honorable Roy L. Ash  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

**OSD Declassification/Release Instructions  
on File**

Dear Mr. Ash:

The views of the Department of Defense have been requested on H. R. 6364, 93rd Congress, a bill "To provide that members of the Armed Forces and Central Intelligence Agency employees who were prisoners of war or missing in action for any period during the Vietnam conflict may receive double credit for such period for retirement purposes."

Advice is requested as to whether there is any objection to the submission of the attached report to the Committee. It is intended to submit a substantially similar report on H. R. 4294, 93rd Congress.

Sincerely,

Frank J. Sherlock  
Director  
Legislative Reference Service

Enclosure



**GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE**  
WASHINGTON, D.C. 20301

Honorable F. Edward Hebert  
Chairman, Committee on Armed Services  
House of Representatives  
Washington, D. C. 20515

DOD Response

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of Defense with respect to H. R. 6364, 93rd Congress, a bill "To provide that members of the Armed Forces and Central Intelligence Agency employees who were prisoners of war or missing in action for any period during the Vietnam conflict may receive double credit for such period for retirement purposes."

The purpose of the bill is as stated in its title.

This report is restricted to that part of H. R. 6364 which relates to authorizing members of the armed forces who were prisoners of war or missing in action, double credit for retirement purposes for periods in which they were prisoners of war or missing in action.

Section 1 of the bill states that the Act may be cited as the "Military and CIA War Prisoners Benefits Act of 1873". Section 2 states that in view of the loyal service rendered by prisoners of war and the hardships and anxiety experiences by prisoners of war and their families, that the Congress finds it in the public interest to enable the former prisoners, if they elect to do so, to "retire early from the service of their country" and that to achieve that end, double credit for periods in a confinement or missing status should be authorized. Section 3 would amend 10 U. S. C. 1405 to authorize persons benefitted by the bill to elect within two years after his return to the jurisdiction of the United States, to credit such periods in determining eligibility for retirement and in computing their retired pay. Section 4 of the bill would amend section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U. S. C. 403(f) note), to provide similar double credit for employees of that agency. Section 5 provides that for persons whose "missing status" was terminated before the date of enactment, the two year period within which an election is required would begin to run on the date of enactment.

The Department of Defense is acutely aware of the physical hardships, privations, and mental anguish experienced during the period of their captivity by persons who were prisoners of war during the Vietnam period. Their families also experienced agony and uncertainty over the welfare and treatment of their husbands, sons, fathers or brothers, as the case may be.

During the period of captivity of those who were prisoners of war during the Vietnam hostilities, the Department of Defense and the Congress have taken many actions to aid the families of the absent member and to provide for the day when the member and his family would be reunited. During the member's absence, his pay and allowances continued to be payable and he continued to be promoted along with his contemporaries. To the extent that it was possible to do so, the member's financial situation and the physical needs of his family were provided for in the same manner as the member would have provided for such needs had he been present. More has been done in monetary ways to aid the Vietnam prisoners of war than has ever been done before in our history for members of our armed forces. It must be recognized, however, that regardless of these actions, it will never be possible to fully compensate in a material way for the hardships and the privations experienced by prisoners of war and their families.

While recognizing the adversities experienced by prisoners of war, the Department of Defense and the nation should not lose sight of those others who have served their country in the armed forces, including those who died as well as those who have suffered major disability in the course of their service. They have also suffered and are entitled to the gratitude of the nation for the contributions they have made and the losses they have suffered.

It is the view of the Department of Defense that enactment of legislation such as H.R. 6364, which would single out those persons who have been prisoners of war and who ultimately retire from the armed forces, for the special benefits provided by H.R. 6364, is not appropriate. Such legislation would not benefit those who do not remain in service until retirement nor does it recognize in an equivalent way those who have lost their limbs or their sight, or have suffered other major impairment but who were not captured.

The Department of Defense believes that to the extent that material benefits can compensate for the hardships and privations suffered by prisoners

of war and their families, those benefits have already been provided. Those particular benefits, together with the wide range of benefits available generally to other veterans of service in the armed forces, will to the extent possible enable retired prisoners of war to resume their rightful place in the American society.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

L. Niederlehner  
Acting General Counsel

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OFFICE OF MANAGEMENT AND BUDGET  
ROUTE SLIP

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| TO <u>Mr. John Maury - CIA</u> | Take necessary action <input type="checkbox"/> |
| <u> </u>                       | Approval or signature <input type="checkbox"/> |
| <u> </u>                       | Comment <input type="checkbox"/>               |
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| <u> </u>                       | Discuss with me <input type="checkbox"/>       |
| <u> </u>                       | For your information <input type="checkbox"/>  |
| <u> </u>                       | See remarks below <input type="checkbox"/>     |
| FROM <u>Jim Hyde - LRD</u>     | DATE <u>7/24/73</u>                            |

REMARKS

We have just cleared the attached Defense report on H.R. 6364. It is requested that you reconsider, in the light of the Defense report, your report on this bill and, pending such reconsideration, we will take no further action on it.